

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	Crim. No. 1:07-cr-401
	:	
v.	:	
	:	
KEMYAH R. WASHINGTON	:	Judge Sylvia H. Rambo

MEMORANDUM

Before the court is a motion for reduction of sentence pursuant to 28 U.S.C. § 2255, filed by Kemyah Washington. (Doc. 105.) The request for a reduction is based on Washington's claim that he had a minor role in the offense. He cites to USSG § 3B1.2. As discussed below, there are several problems which the instant motion faces.

While this court does not believe that the motion is properly classified as a § 2255 motion, for purposes of argument, the motion is not properly before the court. Washington was sentenced by this court on August 7, 2008 and the sentence was affirmed by the Court of Appeals for the Third Circuit on January 20, 2010. Washington filed a motion pursuant to § 2255 on December 24, 2009 (Doc. 53). That motion was deemed withdrawn on April 15, 2010. (Doc. 60.) He filed another § 2255 motion on July 30, 2010. (Doc. 62.) That motion was denied on December 21, 2010. (Doc. 73.) Washington then filed several motions to reduce sentence based on amendments concerning crack cocaine. They were all denied. On August 17, 2015, Washington filed another § 2255 motion (Doc. 92), which the court

denied on October 7, 2015 (Doc. 98). On April 26, 2016, a § 2255 petition was filed (Doc. 100) seeking relief pursuant to *Johnson v. United States*, 135 S.Ct. 2251 (2015), and the petition was denied on July 18, 2016 (Doc. 104). On July 21, 2016, the instant petition was filed. (Doc. 105.) Excluding all the petitions filed under the crack cocaine amendments and the *Johnson* case, the instant motion is Washington's third § 2255 motion.

Pursuant to 28 U.S.C. § 2255(h), a second or successive motion must be certified as provided in 28 USC § 2244(b)(3). This Washington has not done.

Washington's motion does not qualify for consideration under 18 USC § 3582(b) or (c). There is no motion from the Director of the Bureau of Prisons under (c)(1)(A); there is not motion filed pursuant to Federal Rule of Criminal Procedure 35 (§ 3582(c)(B)); he did not qualify under any of the Sentencing Commission's amendments, § 3582(c)(2).

Based on the above, this court does not have jurisdiction to decide the motion and, therefore, the motion will be dismissed.

s/Sylvia H. Rambo

SYLVIA H. RAMBO

United States District Judge

Dated: July 26, 2016